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Constitutional Morality and Passive Euthanasia: Reconstructing End of Life Jurisprudence in India

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Abstract: In India, the recognition of passive euthanasia has brought about a major shift in the concept of life, dignity, autonomy and personal liberty which is guaranteed under Article 21 of the Indian Constitution. In Common Cause v Union of India, the Supreme Court upheld the legality of passive euthanasia, and advance medical directives, and thus remodeled the Indian concept of end-of-life law through the prism of constitutional morality. The article critically explores the judicial reasoning from the narrow interpretation in Gian Kaur v. State of Punjab, to the progressive recognition of dignified death in Aruna Ramachandra Shanbaug v. Union of India and culmination of the same in the Common Cause judgment. The study examines the development of constitutional morality as a way to reconcile the conflicting values of individual autonomy, medical ethics, state interests and the sanctity of life. It also reviews the use of "living wills", informed consent and judicial protection in cases of "passive euthanasia". Comparative International practices are also explored and ethical dilemma surrounding end of life decision making in India is discussed. It believes that the passive euthanasia is a change in the constitution where it recognises the human dignity and decisional autonomy as a fundamental component of a human being's right to life and the right to have a dignified death.

Keywords: Passive Euthanasia, Constitutional Morality, Have the right to die with dignity, Article 21, End-of-Life Jurisprudence

1. Introduction

Whether or not a person has a right to a dignified death has been one of the most complex issues for debate in India, both constitutional and ethical and legal. End-of-life jurisprudence is an evolving concept and has gradually moved from a 'sanctity of life' interpretation to a 'humanistic' interpretation of dignity, autonomy and bodily integrity of the individual as enshrined in Article 21 of the Indian Constitution. The debate on passive euthanasia has evolved over time, due to the judicial interpretations, medical ethics, human rights principles and comparative constitutional practices around the globe. Passive euthanasia is not just a medical or legal change, rather, it is a constitutional change in India that recognizes the dignity of the terminally ill patients who are suffering from irreversible afflictions.

In India, traditionally, all types of euthanasia and assisted suicide were illegal. The law was largely shaped by Sections 309 and 306 of the IPC, 1860 which punish attempt to commit suicide and abetment of suicide respectively. Life was the dominant state interest, with the sanctity and preservation of life being emphasised. The idea of someone opting out of life-sustaining care, therefore, was met with scepticism and uncertainty of the law. The religious and cultural beliefs of Indian society, in general, view life as sacred and inviolable which foreclosed any legal acceptance of the euthanasia.

The constitutional issue relating to right to die was brought to the forefront in the case of P. Rathinam v. Union of India, where the Supreme Court had a controversial ruling that the right to life under Article 21 also includes the right to not live or to die. The Court noted that it was a denial of personal liberty and human dignity to make a person live against his or her will. This interpretation was short-lived however. P. Rathinam was overruled in Gian Kaur v. State of Punjab and a Constitution Bench held that the right to die was not a part of Article 21. However, the Court also drew an important constitutional distinction as it saw that the "right to die with dignity" in the context of a terminal illness or if someone was being kept alive in a persistent vegetative state, could be part of the right to life with dignity. This observation was the basis of Indian constitutional law to develop the future law of euthanasia.

The concept of passive euthanasia came into the limelight at the national level when Aruna Ramachandra Shanbaug vs the Union of India came up in court. A nurse named Aruna Shanbaug was taken aback after being brutally assaulted and became the centre of the euthanasia debate in India as she was in a PVS for more than 40 years. The Supreme Court in this historic decision gave permission for passive euthanasia with judicial supervision and denied permission for active euthanasia. The Court drew a clear distinction between the two kinds of euthanasia—actively killing and withdrawing extraordinary life-support measures that cause only added pain. The judgment allowed for passive euthanasia in certain situations, but also added the High Court's stamp of approval to make sure there are safeguards in place and the process is used correctly.

The most significant change has been in the case of Common Cause v. Union of India, where a Constitution Bench of the Supreme Court gave constitutional shape and form to passive euthanasia and accepted living wills or advance medical directives. The Court pointed out that "Right to die with dignity" is an inherent part of Article 21. The decisions greatly broadened the interpretation of personal autonomy, privacy, bodily integrity and self determination in the constitution. It also highlighted the importance of constitutional morality as a principle to uphold the freedom of individual decisions with regard to end-of-life medical care.

It is evident that Indian end-of-life jurisprudence has evolved as an attempt at making a balance of other constitutional values. One side of the coin is the duty of the state to save lives and on the other side is the will of the person to be treated with respect, autonomy and without unnecessary suffering. There is also a growing influence of principles of international human rights and comparative constitutional approaches that are apparent from the jurisprudence. Indian legal discourse has been shaped by countries that have been more recently accepting different forms of euthanasia and/or physician assisted deaths, like the Netherlands, Belgium, Canada, and some states within the U.S.Countries that have been more recently accepting different forms of euthanasia and/or physician assisted deaths have influenced legal debate in India with different forms of it, such as the Netherlands, Belgium, Canada, and some states within the United States.

Passive euthanasia jurisprudence also brings with it broader socio-legal issues. Informed consent, medical negligence, abuse by relatives, commercial exploitation and ethical issues within hospitals are still issues that are debated by the public. Besides, end-of-life rights are difficult to effectively and equitably implement due to the healthcare system in India and economic disparities and social vulnerabilities.

So the development of a new "end-of-life" jurisprudence in India illustrates a constitutional paradigm changeover from a paternalistic approach to an "end-of-life" rights-based concept of dignity of human person and decisional autonomy. It marks a progressive attitude of the judiciary towards giving a dynamic interpretation to Article 21 keeping pace with the evolving social and medical realities and constitutional morality.

2. Constitutional Morality and the enhanced ambit of Article 21

The idea of constitutional morality has become a revolutionary guiding principle in the field of constitutional law jurisprudence in India, especially in respect of personal liberty, dignity, privacy and autonomy of individuals. In

the passive euthanasia context, the constitutional morality has been very instrumental in redefining the meaning and ambit of article 21 of the Constitution of India. The nature of the right to die "with dignity" is in keeping with the overall constitutional mandate of the judiciary to recognise human dignity, decisional autonomy and ethical governance and not an arbitrary preference for traditional social and moral values.

Article 21 states that "no person shall be deprived of life or personal liberty, except according to the procedure established by law. For a long time, Article 21's meaning was interpreted in a narrow and procedural manner by the judiciary. But, after the Maneka Gandhi case vs. the Union of India, the Supreme Court gave a wide view definition to personal liberty, and made Article 21 a repository of various substantive rights. With the passage of time the Court began to incorporate rights such as right to privacy, living a dignified life, livelihood, shelter, clean environment, healthcare, legal assistance, autonomy over reproduction, etc. in Article 21.

Doctrine of constitutional morality emerged in the context of social justice, gender equality, rights of LGBTQ+, privacy, and individual autonomy. Constitutional morality means the observance of the values of the Constitution (liberty, equality, dignity, fraternity and justice) and not the accepted morality of the society or the majority opinion. For the purpose of euthanasia jurisprudence, constitutional morality was a way for the Court to make way for those who are terminally ill and give them dignity and autonomy while challenging the perception that preserving life is paramount.

The Supreme Court has laid a solid foundation of constitutional morality for passive euthanasia in Common Cause v. Union of India. The Court acknowledged that this is a form of prolonged suffering for a terminally ill patient, which may offend human dignity, if it involves the use of artificial means to keep them alive. It believed that dignity was not just related to living but also to dying. Therefore, the right to die with dignity was considered as a natural right extension of the right to live with dignity.

It was written in response to the impact of the privacy jurisprudence laid down in Justice K.S. Puttaswamy v. Union of India, in which the Supreme Court had established privacy as a fundamental right as per Article 21. Intimate personal decisions, decisional freedom, and bodily autonomy are all elements of privacy. Personal autonomy, which is guaranteed by privacy rights, is clearly involved in the end-of-life decisions of refusing medical treatment, withdrawing life support and setting up advance directives.

Living wills or advance medical directives also were influenced by constitutional morality. Living wills allow competent people to make medical choices ahead of time for the event of their becoming incapable of making their own medical choices. Such directions were interpreted as expressions of autonomy and self-determination by the Court. In making the recognition of advance directives, the judiciary gave an assent that the constitutionally gives the power to an individual to decide how he or she would like to be treated or not treated when they are terminally ill.

The other important element of constitutional morality in the jurisprudence of euthanasia is the ratio between the rights and interests of individuals and those of the state. It is clear that the State has a legitimate interest in protecting lives and in preventing abuse. But constitutional morality demands that the use of state force be in a way that does not lead to the annihilation of the human dignity and autonomy of the individual. Thus, in an attempt at balancing, the Court allowed passive euthanasia, under the condition of safeguards, medical supervision and judicial supervision.

The principle of informed consent was part of the concept of Article 21 which has now been extended to medical jurisprudence. Informed consent recognises the patient's right to receive sufficient information about medical treatment and the patient's right to make autonomous decisions about his/her healthcare. The constitutional recognition of passive euthanasia strengthens the ethics of healthcare from the patient's point of view, by affirming that there are no paternalistic decisions made without the consent of the competent patient.

Furthermore, the principles of constitutional morality break the taboos of society in regard to death and dying. The debate around euthanasia in India has been deemed immoral because of religious and cultural sentiments. In the case of social conservatism, however, where the rights of individual are at stake, constitutional morality demands constitutional values to overcome it. Through the judiciary's attitude, it is shown that constitutional rights will not be denied simply because they are contrary to the prevailing moral views.

But constitutional morality is not for the unlimited resort to euthanasia. The Supreme Court made it clear that there is a difference between passive and active euthanasia. Passive euthanasia is the withdrawal or omission of extraordinary medical assistance while active euthanasia is the intentional giving of substances that are meant to cause death. To avoid potential misuse and the ethical safeguards in medicine it is established, the Court limited it to passive euthanasia.

The Indian Constitution, with its constitutional morality is dynamic and living, and this is illustrated in the expansion of Article 21. The Constitution is not a "dead" document with only historical purposes but rather "living" document that adapts to new social realities and technological developments, as well as new moral challenges. In this context, end-of-life jurisprudence is an expression of the constitutionalisation of the various aspects of compassion, dignity and autonomy in the Indian legal discourse.

So, the moral philosophy of constitutionalism has evolved as a basis for the reconstruction of end-of-life jurisprudence in India. It makes sure that the principles of human dignity, individual freedom and ethical justice are the focus of constitutional interpretation and that there is a balance between the interest of the people and institutional protection.

3. Judicial Evolution from Gian Kaur to Common Cause

Activity of passive euthanasia in India provides an example of how the concept of life, liberty, dignity and autonomy of the patient has undergone a transformation in the course of time in the Indian constitution. This constitutional journey from Gian Kaur v. State of Punjab to Common Cause v. Union of India reflects an attempt by the judiciary to balance issues of constitutional morality, medical ethics and human dignity in the context of Article 21 of the Constitution of India. This shift is also reflective of the shift of the Court's attitudes on end-of-life decision making from being restrictive to more progressive and rights-based.

The jurisprudential basis for euthanasia discussions in India has come about as part of the Indian penal code 1860, section 309 which makes an attempt to commit suicide illegal. In the case of P. Rathinam v. Union of India, the Supreme Court gave a liberal interpretation of the right to life and in the process took the interpretation that the right to life also meant the right to not live. The Court held that it was the duty of the State to protect human dignity and personal liberty by not forcing an unwilling person to live. It saw Section 309 IPC as being arbitrary and unconstitutional as it would punish people already in emotional/psychological distress.

But, there was a lot of legal and philosophical debate on the rationale behind Rathinam's P.But, the argument in P. Rathinam sparked a lot of legal and philosophical critique. A Constitution Bench took a re-look on the issue in Gian Kaur v. State of Punjab. The Court in Gian Kaur held that the right to die is not a part of right to life under Article 21. The Court noted that death was an "unnatural" end to life and life was "a natural right. Thus, a right to commit suicide would not be protected in the constitution.

Although Gian Kaur was opposed to a general right to die, she introduced a significant constitutional distinction that was to have an impact on euthanasia jurisprudence. The Court found that the "right to die with dignity" in the case of a terminal illness or imminent natural death, may be covered by Article 21. This observation recognized that in addition to life, the dignity of the dying process as well. The Court never actually legalized euthanasia, but paved the way for other future judicial advances.

The finding that the next significant step came in Aruna Ramachandra Shanbaug vs. Union of India. Aruna Shanbaug was left in a vegetative state for more than 40 years after being brutally beaten in a Mumbai hospital. A request to allow the euthanasia application was made to the Supreme Court. The case put the judiciary in a situation where they had to deal with ethical and constitutional issues involving withdrawal of life support and patient dignity, as well as medical decision-making.

The Supreme Court has differentiated between the active euthanasia and passive euthanasia in Aruna Shanbaug. The concept of active euthanasia is deliberate action to end life through giving a lethal dose of a substance and passive euthanasia is withdrawing or withholding life-sustaining treatment. While the Court declared that active euthanasia is illegal, it allowed "passive euthanasia" under certain conditions and under the strictest supervision of the court. The High Court ordered that life support be taken away only after it was given approval based on medical opinions of experts.

The Aruna Shanbaug judgment was a judicious but significant move towards a change. It recognized that when attempts to breathe life into an artificially maintained body are made in hopeless medical cases it may be an attack on human dignity. However, the Court was also worried about the possibility of misuse, coercion and unethical medical practices. It therefore adopted a very regulated system that would ensure that it would not be used for abuse, but would allow for compassionate end of life decisions to be made.

The most significant change took place in Common Cause v. Union of India. In this historic Constitution Bench case, the Supreme Court recognised the concept of passive euthanasia and the law of living wills/advance medical directives. The Court, in a categorical manner, confirmed that right to die with dignity is a part of the Article 21.

The Common Cause judgment greatly broadened the scope of constitutional principles on autonomy and dignity. The Court reminded the reader that competent persons have the right to withhold consent to unwarranted medical treatment and the right to exercise informed decisions when it comes to end of life care. It was the opinion of this that it was wrong to impose upon a person with a life-threatening condition to endure painful and useless medical treatment that they are not prepared to receive.

Constitutional morality and privacy jurisprudence had a strong impact on the judgment. The Court in K.S. Puttaswamy v. Union of India held that the concept of "decisional autonomy" was a fundamental constitutional value. The introduction of the concept of ‘living wills' was introduced to allow the individual to make their wishes known in advance when they are unable to do so as a result of illness or incapacity.

The Court additionally provided complicated guidelines for carrying out passive euthanasia and advance directives. These measures were to be medical board certification, consent, judicial oversight and institutional checks to prevent misuse. Critics say the guidelines were too complicated, but the Court believes they should be in place to ensure autonomy and prevent abuse.

Common Cause has also made a significant contribution by clarifying dignity as a constitutional value which goes beyond being merely a physical being. The Court explained that there is more to life under the frame of Article 21 than just the existence of the human person, but quality of life, freedom from degrading suffering and meaningful autonomy. Thus, it is not always appropriate to try to prolong the biological life of hopelessly ill human beings by unnatural means, which could conflict with their constitutional dignity.

In Common Cause, the Indian judiciary has slowly embraced patient autonomy and compassionate constitutionalism with the evolution from Gian Kaur. The jurisprudence shows a shift away from doctrine based on the sanctity of life and a balance between dignity and protection from exploitation.

The development of the law by the judiciary also highlights the importance of comparative constitutional law and international human rights law in Indian law. The courts have started referring to worldwide decisions and events on euthanasia, patient rights and medical ethics in their understanding of the constitutional provisions in India.

The story of Gian Kaur to Common Cause, therefore, is a significant constitutional shift that redefined India's end-of-life jurisprudence by incorporating the tenets of dignity, autonomy, privacy and constitutional morality.

4. Passive Euthanasia, Living Wills and Medical Decision Making.

Passive euthanasia and living wills are the essential elements of the contemporary Indian end-of-life law. The decision in the case Common cause v Union of India by the Supreme Court in India, which is the base of their recognition, has revolutionized the link between the constitutional rights, medical ethics and healthcare decision making. The court decision recognized the constitutional right of terminally ill people to opt out of invasive medical treatment and that they have the power to make their own decisions about end-of-life care. Thus, the process of medical decision making in India has increasingly become patient-centred with the principles of dignity, informed consent and self-determination.

Passive euthanasia is when an active step is taken to end a life or to withhold some special medical care that would not be taken if the life were not considered to be in a terminal or irreversible condition. It is not the same as the active euthanasia that consists of trying to end life by deliberately administering lethal substances. The Supreme Court only acknowledged passive euthanasia as it is different from active euthanasia which is aimed at death. Passive euthanasia is done to have a patient die as naturally as possible, so as to avoid unnecessary prolongation of suffering caused by artificial medical technologies.

The medical developments over the last century have had a huge impact on end-of-life care, providing life support measures like feeding tubes, artificial hydration, artificial respiration, and ventilators. These technologies have the potential of saving lives, but can also extend the life of a living organism when there is no medical hope that a person will survive. In these cases, it is often up to the individual to decide if continued intensive medical care is advisable, which may involve ethical issues of the dignity of the patient, their pain, emotional distress, and financial strains on their families.

Passive euthanasia is recognized as a result of the principle of the constitution, which states that people are not to be forced to suffer for nothing. The Supreme Court said that it would be unconscionable to allow a person to be preserved alive at any cost, as it would be against the dignity guaranteed under Article 21. As such, the withdrawal of futile medical treatment in irreversible situations was ruled constitutionally acceptable, provided certain conditions are met.

The Common Cause judgment was one of the most significant changes it made was the recognition of living wills or advance medical directives. A living will is a legal document in which a competent person is expressing their wishes for medical care in the event they become incompetent or suffer from a terminal illness. These provide people with the opportunity to make a choice whether the treatment used to keep them alive should be continued or stopped if they are in certain situations.

Living Wills in Indian law added to the concept of autonomy. It recognized that people have a right to control the decisions made about their own bodies, treatment and expressions of their will of dying. Advance directives also help to eliminate uncertainty in family members and health care providers when a patient is no longer able to give consent.

In Passive Euthanasia, there are complex ethical considerations in medical decision making. The adage 'first do no harm' and 'do what is best for the patient' is always followed by doctors. But, in recent times, the principles of autonomy and informed consent of patients have been increasingly given emphasis in medical ethics. A doctor should not give a medicine to a competent patient to keep him alive for a few more days because it is medically necessary, when it is not.A competent patient may refuse treatment even when it is medically necessary to extend his life, in order to prolong his life for a few more days. Thus, passive euthanasia involves a consideration of the

conflicts between the professional obligation to care for the patient and the constitutional right to respect the patient's wishes.

Informed consent is a very important factor in end-of-life decision making. As a part of informed consent, patients need to be provided with clear information about diagnoses, prognosis, risks, treatment options and consequences before making a medical decision. Accepting passive euthanasia helps to reinforce the concept that patients are entitled to make decisions about whether to receive treatment or not, after receiving medical information about the implications.

There are also safeguards to be put in place for the implementation of passive euthanasia so that it is not used inappropriately. Supreme Court laid out guidelines in great detail with regards to the medical boards, expert opinion, supervision and record keeping. These protection are designed to prevent decisions from being made on false medical needs, or because of financial gain, a failure to care for the person or if family members or institutions are mistreating the person.

But there are still a number of implementation difficulties. The healthcare system in India has several infrastructural challenges, unequal access to healthcare, lack of awareness about living wills and insufficient palliative care facilities. Patients and families are not well versed on advance directives or legal aspects of 'passive euthanasia'. In addition, physicians might be reluctant to take their treatment decisions because of concerns about legal liability or societal consequences.

Another one is the difference between passive and the withdrawal of ordinary medical care. Ongoing ethical questions are raised about when life support can be withdrawn and whether withholding treatment is morally different from active death, which are discussed in greater detail.Ethical issues raised about when life support can be withdrawn, and whether withholding treatment is morally different from actively causing death are discussed in greater detail and continue to be debated. Passive euthanasia, they say, could eventually become the way to active euthanasia; and that deference to patient autonomy is a fundamental principle of constitutional democracy.

In India, public attitudes towards passive euthanasia is also affected by religious and cultural beliefs. In many religions death is revered as sacred and it is unacceptable to purposely cause or interfere with the natural process of death. But, the integrity of the person and his/her dignity must be guaranteed by law, even when he/she is not in accord with the dominant or religious values.

Later, in further judicial interpretations, the guidelines laid down by the Supreme Court were streamlined for easier implementation in practice with regard to passive euthanasia. Judiciary acknowledged that complex procedures might impede timely medical decision making and the aim of compassionate end of life care.

In sum, passive euthanasia and living wills are a major constitutional development that embeds some of the concepts of dignity, autonomy and medical ethics in the Indian healthcare jurisprudence. They represent a general shift in medicine from a paternalistic model to an empowerment of the patient and informed decision making. The decision highlights that in any instance of “unbearable suffering”, constitutional democracy must respect the right to die, as well as the right to live.

5. Comparative Perspectives and International Approaches to End-of-Life Rights

The euthanasia and end-of-life debate is international, with varying legal, ethical, religious and constitutional perspectives in different locations. Comparative analysis is of special significance for the study of the development of India's passive euthanasia jurisprudence and courts have often looked at the international practices in understanding the constitutional rights of dignity, autonomy and medical decision-making in India. The acceptance of passive euthanasia in India is evidenced of the process of comparative constitutionalism and international human rights literature influencing the constitutional development in the country.

Euthanasia and PAS laws and policies differ from country to country. In a broad sense there are jurisdictions that ban all types of euthanasia, jurisdictions that allow for passive euthanasia only, and jurisdictions that tolerate active euthanasia and/or physician-assisted suicide under specific conditions.

The Netherlands is the first country to have officially recognised active euthanasia and assisted suicide in the country (the Termination of Life on Request and Assisted Suicide Act, 2002). Euthanasia is allowed in the Netherlands when the patient suffers from unbearable pain and has no hope of recovery, and has actively asked to have his or her life ended. Informed consent and medical consultation and reporting procedures are required for strict safeguards. In the Dutch model, the concept of autonomy, compassion and transparency in medical practice is emphasised.

Euthanasia was also legalised in Belgium in 2002, and in 2011, certain minors were added to the list of those who can choose euthanasia, provided they meet very specific criteria. Euthanasia is legal in Belgium if there is a "constant and intolerable physical or psychic suffering" caused by a "serious medical condition." The Belgian framework is based on a rights-based philosophy, with the focus on the human dignity and personal autonomy.

The right to physician-assisted dying was recognized by Canada in the case of Carter vs. Canada. The Canadian Supreme Court decided that the right to life, liberty and security of the person is violated by prohibiting physician-assisted dying. It was later into Parliament that a law was passed that allows for MAiD under specific controlled conditions. The Canadian emphasis is on autonomy and freedom from intolerable suffering, which are important not only in practice, but also constitutionally.

Physician-assisted suicide is a legal option in several states in the USA, under the heading of the "Death with Dignity" laws. Some states (Oregon, Washington, California, Colorado) permit the use of a mandated safeguard to provide a terminally ill competent adult the option to request assistance in dying through medication. But euthanasia is still illegal at the federal level. The American attitude is marked by a strong emphasis on individual freedom and informed consent and a difference between passive euthanasia and active measures.

However, ethical, religious, and/or social objections continue to be raised in many countries against euthanasia in general. Conservative moral views tend to see euthanasia as a violation of the principle of the sanctity of life, which is upheld in countries with a conservative tendency. However, in all of these jurisdictions, withdrawing futile medical care and acknowledging the patient refusal right are gaining acceptance, even in the most restrictive jurisdictions.

In the United Kingdom, the attitude towards euthanasia is conservative. Assisted suicide is still a criminal offence, as per the Suicide Act, 1961. In English, however, there is a concept of autonomy in relation to refusal of treatment and withdrawal of life support. The British courts have granted exceptions for passive euthanasia, where artificial nutrition and hydration is withdrawn in cases like the Airedale NHS Trust v Bland, where patients are in a PVS.

But international human rights law has also had an impact on end-of-life cases throughout the world. In the debate over euthanasia and assisted suicide, aspects of human dignity, bodily integrity, privacy and the right to be free of inhuman treatment are constantly being called upon. The European Court of Human Rights has tackled a few cases relating to assisted suicide and end-of-life autonomy, but in general, allows member states a "margin of appreciation" to control euthanasia within their own countries in line with their own values.

India's passive euthanasia jurisprudence is a case in point of the selection of international principles in the Indian constitutional culture. Indian courts differentiated between passive euthanasia and active euthanasia and made a point of emphasizing the safeguards and constitutionality in the procedure. The judiciary recognized the developments in the international arena but was prudent in adapting to them keeping in view the socio-cultural scenario in India, the inequalities in healthcare and the Indian legal system.

There are also key ethical issues to be considered from a comparative perspective that can be raised in relation to euthanasia regimes. Legalisation is a concern for critics because it could allow for some degree of subtle coercion or abuse of vulnerable individuals, like elderly people, disabled patients, economically disadvantaged individuals or socially isolated individuals. Issues of commercialisation of health care, lack of palliative care and pressure on patients to kill themselves because of cost implications have been raised.

Those who believe in the right to die say it is right to give people the choice to go on living with irreparable misery and terminal illness. They stress the need for competent adults to have the constitutional right to make significant personal decisions about their bodies and health care. The use of strictly designed legal systems and regulations has been shown in the experience of others to reduce abuse without compromising human dignity.

India's attitude is somewhere between the extremes of prohibiting and unrestricting euthanasia. The Supreme Court has introduced many concepts that were not included in the law, such as the concept of passive euthanasia, the concept of living wills and the ban on active euthanasia, all in the name of freedom, which was juxtaposed with serious issues for society regarding misuse. The vision of the Indian model is based on the principles of constitutional compassion, dignity and patient autonomy, along with institutional protection through medical and judicial monitoring.

A second one from the comparative legislation is the importance of palliative care. In countries with well-developed rights to death regulations, palliative care is well developed so that euthanasia isn't a replacement for a good pain management system and compassionate care. Access to palliative care still remains a problem in India especially in the rural and economically deprived areas.

Comparative constitutional approaches illustrate that the end-of-life rights are very complex legal, medical, ethical, religious and human rights issues. There is no basic model, and each jurisdiction has their own approach to weighing competing interests. But, the world is shifting towards respecting patient autonomy, informed consent and dignity in dying.

Therefore comparative perspectives are useful to bolster the passive euthanasia regime in India with appropriate ethical precautions, institutional responsibilities and safeguards for vulnerable people in a constitutional democracy.

6. Challenges, Ethical Concerns, and the Future of Passive Euthanasia in India

Passive euthanasia was recognised in India as an important constitutional and humanitarian step, but is still fraught with considerable legal, ethical, institutional and social issues. While the judiciary in Common Cause v. Union of India has given constitutional sanctity to the autonomy of end of life, the practical scenario shows that there are several complexities which can impact the actual implementation of passive euthanasia in Indian healthcare and legal frameworks. The challenges reflect the dichotomy of individual freedom and social responsibility in a pluralistic and unequal democracy.

Misuse and coercion is one of the main issues. Social and economic disparities in India can lead to an indirect urging to stop treatment for vulnerable patients, elderly people, disabled persons or those who depend on their family members financially. Factors that have to do with financial costs of extended medical treatment may affect decisions about pulling life support. The worry is that in a society where access to good health services is unequal, passive euthanasia might, indirectly, turn out to be a means of economic compulsion, instead of a free decision.

Medical infrastructure and institutional preparedness is another a major concern. Passive euthanasia is a process that requires a well-equipped hospital, a competent medical board, ethical committees, trained healthcare professionals who are able to accurately assess terminal illness and irreversible conditions. But there are many gaps in healthcare institutions in India, such as insufficient resources, palliative care centers, and legal

consciousness about end-of-life care. One of the key challenges for rural health systems is the lack of infrastructure, which can make it difficult to implement judicial guidance.

In addition, there are practical challenges related to the fact that the public is unaware of living wills and advance medical directives. The overwhelming majority of citizens are not aware of the legal term for advance directives, nor are they aware of the Supreme Court's procedure in establishing such directives. The reluctance of culture to talk about death-related issues also hinders people from making a living will. This can result in family members being caught in an emotional dilemma when it comes to making care decisions at the end of life for an incapacitated loved one.

There are also ethical issues with the issue of passive euthanasia faced by medical practitioners. The medical profession has in the past followed a moral imperative to save lives. There is often a sense by many physicians that a withdrawal of treatment could be considered opposition to the duties of their profession or that the physician could become subject to criminal liability, charges of negligence or social criticism. A lack of comprehensive statutory law on passive euthanasia leaves more room for uncertainty for health professionals.

Another controversial question is whether there is a difference between passive euthanasia and active euthanasia. Critics state that there can sometimes seem to be a moral difference between withdrawing life support and actively causing death. Ongoing ethical issues exist as to whether withholding treatment is as much a form of killing as it is an act of letting go. In India, it is clearly illegal for anyone to actively participate in the euthanasia process, but future legal and ethical debates can question the viability of this separation.

Euthanasia is a topic that is heavily influenced by religious and cultural norms in India. Human life is sacred and there are many religions that are against any deliberate attempts to intervene in the dying process. There are different interpretations across the religions of Hinduism, Islam, Christianity and others of suffering, death and moral responsibility. Euthanasia proponents believe that acceptance of the act renders it less taboo and sets a dangerous precedent in society.

As to the rights and the dignity of the individual, supporters argue that constitutional morality should triumph over religious conservatism. They say giving consent to undergo suffering for the sake of a moral objective, which is the society's, is unconstitutional, as this is in violation of compassion and liberty of the individual as guaranteed by Article 21 of the Constitution. The use of constitutional morality by the judiciary is an attempt to secure individual autonomy with regard to the social values of pluralism.

An other challenge is the lack of adequate palliative care centers in India. Unfortunately, access to adequate pain management and hospice care is insufficient for many terminally ill individuals and they experience extreme pain. Passive euthanasia is not to be an alternative to full palliative care, critics say. The state needs to improve its health care for the patients, providing them with proper support, counselling and psychological care, before the expansion of end-of-life rights.

The time-consuming, complicated procedural safeguards that the Supreme Court has set also drew criticism. At first, it was a multi-boards, magistrate and a complex verification process. It was argued that this formality may cause delays in the promptness of medical decisions and lead to the prolongation of patient's suffering. Later court rulings streamlined some of the processes, but issues have been raised about administrative effectiveness.

A major lacuna in the law is the lack of a comprehensive law on passive euthanasia in parliament. The framework is currently more under the control of judicious practice than detailed statutory control. A legal framework may give more clarity on definition, institutional duties, procedural protection, penalties for improper use and protection to medical practitioners. Parliamentary involvement would also make the regulation of sensitive bioethical issues more democratic.

Medical advances add to the complexities of end-of-life law. Thanks to artificial intelligence, life-saving technology, genetic treatments, and neuro-medical procedures, there is a massive grey zone between life, consciousness and medical futility. The issues of 'extended artificial life' and 'technologically sustained biological life' and cognitive incapacity are likely to be debated in the future constitution.

A delicate balance between autonomy of the constitution and social protection mechanisms will likely be key to the future of passive euthanasia in India. Greater public awareness; better palliative care; ethical training for medical professionals; transparency within institutions; statutory regulation are important to ensure responsible implementation. Judicial decisions alone do not solve the real world and ethical issues of end-of-life care.

The recognition of passive euthanasia marks a considerable constitutional progress towards the respect of the human dignity, however, in the face of these obstacles. It reflects the judiciary's readiness to be compassionate and respect individuals' choices and suffering. In general, the jurisprudence reflects a shift in the rules of the Indian constitution from paternalism towards the recognition of personal choice and human dignity as fundamental values of the constitution.

7. Conclusion

Passive Euthanasia is a massive shift in the constitutional understanding of Article 21 of the Indian Constitution which talks about the right to life, dignity, autonomy and medical decision making. Since Gian Kaur v. State of Punjab, the Supreme Court's evolution of end-of-life jurisprudence to Common Cause v. Union of India, it has established that the concept of dignity does not end at mere biological life, but continues to be a right to die with dignity when enduring suffering is unavoidable and there is a terminal illness.

The development of the jurisprudence in relation to passive euthanasia is an example of the increasing role constitutional morality plays in the interpretation of the Constitution. Living wills and advance medical directives were acknowledged by the judiciary, reinforcing the concepts of autonomy, consent, privacy and body integrity. The constitutionality of the decision regarding the end of life shows the dynamic character of Article 21 and its ability to grow with evolving medical realities, ethical questions, and developments in society.

Meanwhile, the legal and ethical issues of passive euthanasia remain considerable, with issues of misuse, inequity in healthcare, preparedness and opposition in culture. The lack of legislation and the lack of palliative care structures are still major challenges and need to be addressed urgently through policy. Constitutional recognition, therefore, should go hand-in-hand with robust procedures, awareness, ethical medical practices, and legislative change.

In conclusion, the practice of passive euthanasia in India is a move towards compassionate constitution, placing a focus on the respect for the dignity of the human person and on the respect for personal autonomy, while also taking into account the interests of society and the medical ethics. It is a mark of a new constitutionalism that is more humane and can answer the complex question of suffering, death and freedom of the individual in a democratic society.

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